

1      **MOHAJERIAN INC**  
2      **AL MOHAJERIAN**, CSBN 182013  
3      1925 Century Park East, Suite 350  
4      Los Angeles, California 90067  
5      Tel: (310) 556-3800/Fax: (310) 556-3817  
6      al@mohajerianlawcorp.com

FOR COURT USE ONLY

7  
8      Attorneys for Defendants Jayantilal Kanji Gogri, Chanchal J.  
9      Gogri, dba, Mountain Mike's Pizza, and Chaudhariya, Inc.

10  
11      **UNITED STATES DISTRICT COURT,**

12      **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

13      KINGVISION PAY-PER-VIEW, LTD.,

14                  Plaintiff,

15                  vs.

16      JAYANTILAL KANJI GOGRI AND  
17      CHANCHAL J. GOGRI, INDIVIDUALLY and  
18      d/b/a MOUNTAIN MIKE'S PIZZA, and  
19      CHAUDHARIYA, INC., d/b/a MOUNTAIN  
20      MIKE'S PIZZA, et al.

21                  Defendants.

22      ) CASE NO.: C07-05738

23      ) Honorable Marilyn Hall Patel

24      ) **ORDER RE:**

25      ) **NOTICE OF MOTION AND MOTION TO  
26      BE RELIEVED AS COUNSEL,  
27      MEMORANDUM OF POINTS AND  
28      AUTHORITIES, DECLARATION OF AL  
MOHAJERIAN**

29      ) **[MOVING PARTY WAIVES ORAL  
ARGUMENT]**

30      ) DATE: November 10, 2008

31      ) TIME: 2:00 p.m.

32      ) Court Room: 15

33      **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

34      **PLEASE TAKE NOTICE THAT** Al MOHAJERIAN, Esq. will make this

35      motion on for hearing before this court on Monday November 10, 2008, at 2:00 p.m.

36      or as soon thereafter as the matter can be heard, in Courtroom No. 15 of the United

37      States Courthouse located at 450 Golden Gate Avenue, San Francisco, California

1 94102 for an order permitting him to be relieved as counsel of record for Defendant  
2 Chaudhariya, Inc. (hereinafter referred to as "Defendant") in this proceeding.  
3

4 The grounds for this motion are based on the facts that communications have  
5 broken down between counsel and Defendant. Defendant is no longer accepting the  
6 advice or legal opinions of Mr. Mohajerian. An actual conflict of interests has  
7 occurred and Mr. Mohajerian is unable to effectively represent Defendant's position  
8 in regard to this matter and as such, must withdraw. This Motion to be Relieved as  
9 Counsel is supported by the Memorandum of Points and Authorities, and attached  
10 Declaration of Al Mohajerian, Esq. and the pleadings and papers on file in this action.  
11

12 Date: September 26, 2008  
13

14 *Respectfully submitted,*  
15 MOHAJERIAN INC.  
16

17 By:  
18 AL MOHAJERIAN, Attorney for Defendants  
19 Jayantilal Kanji Gogri, Chanchal J. Gogri,  
20 Mountain Mike's Pizza, and Chaudhariya, Inc.  
21  
22  
23  
24  
25  
26  
27  
28

## **MEMORANDUM OF POINTS AND AUTHORITIES**

**I. COMMUNICATIONS BETWEEN COUNSEL AND**  
**DEFENDANT HAS BROKEN DOWN AND LEGAL**  
**REPRESENTATION IS NO LONGER EFFECTIVE.**

In this matter, communications between the Defendant and Defense counsel Al Mohajerian have broken down to the point that Defendant is unwilling to accept the advice or legal opinions regarding the litigation of this matter from Mr. Mohajerian.

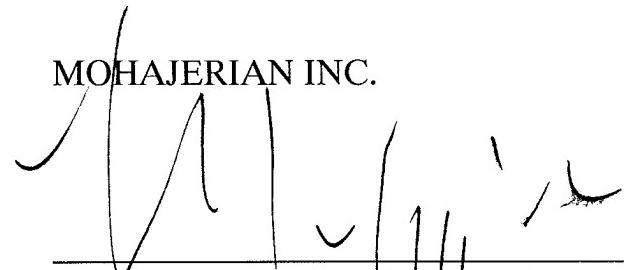
In California, an attorney may withdraw as counsel of record if a client's conduct renders it unreasonably difficult for the attorney to represent the client effectively. Ferruzzo v. Superior Court (1980) 104 Cal. App. 3d 501, 504, See also California v. M & P Invs., 2007 U.S. Dist. LEXIS 81131 (E.D. Cal. Oct. 22, 2007). Moreover, "withdrawal is proper when the client's interest will not be unduly prejudiced or delayed". Ramirez v. Sturdevant (1994) 21 Cal. App. 4<sup>th</sup> 904, 915-16.

Further, California Rule of Professional Conduct 3-700(C)(1)(f) provides that “an attorney may request permission to withdraw if the client “breaches an agreement or obligation to the member as to expenses or fees.” Liberty-Ellis Island Foundation, Inc. v. International United Industries, Inc. 110 F.R.D. 395, 397 (S.D.N.Y. 1986)

1           **II. CONCLUSION**

2           In this case, the Defendant currently owes a substantial outstanding balance to  
3 the Mohajerian Law Firm for legal services rendered to date. In addition, Defendant  
4 is no longer willing to accept the legal advice or opinions of Mr. Mohajerian with  
5 regard to how best to build a defense in this matter. Per California case law and Rule  
6 of Professional Conduct 3-700, Mr. Mohajerian is justified, at this time, to request to  
7 be relieved as counsel. This request should be granted as it will not unduly prejudice  
8 or delay the Defendant's ability to mount a defense.

9  
10  
11  
12  
13  
14           Dated: September 26, 2008  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

MOHAJERIAN INC.  
  
AL MOHAJERIAN, Attorney for  
Defendants Jayantilal Kanji Gogri,  
Chanchal J. Gogri, dbam, Mountain  
Mike's Pizza, and Chaudhariya, Inc

**DECLARATION OF AL MOHAJERIAN, ESQ.**

1. I, AL MOHAJERIAN, ESQ., am an attorney at law duly licensed to practice law in the State of California. I make this declaration in support of the attached Notice of Motion and Motion to be Relieved as Counsel. I have personal knowledge of the following, and if called upon as witness, I will testify to the facts stated herein.

2. I am currently the attorney on record in this matter for Defendant Chaudhariya, Inc. (hereinafter referred to as "Defendant")

3. Communications have broken down between me and the Defendant causing a breakdown in the attorney client relationship. Defendant and I no longer agree how this case should be litigated. Thus a breakdown in the attorney client relationship has occurred within which neither side can come to an agreement as to how best to proceed. Defendant has further refused to fund the attorneys' fees and expense of this case. At the present time, this firm is not funded to proceed and carry out any discovery. Moreover, Defendant remains past due on its account to a substantial sum for past and present legal services. Defendant has disputed the pending bill and has refused to fund all future legal fees.

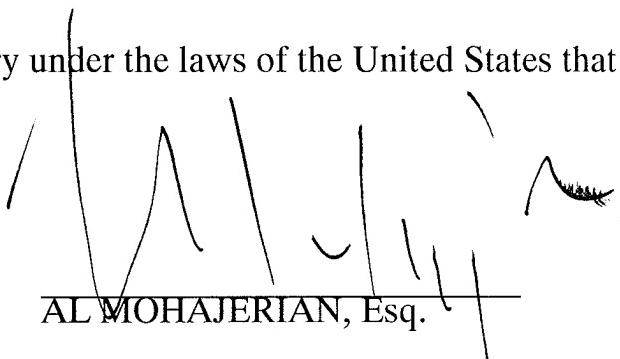
1       4. At this time, neither I nor the Defendant can come to an agreement  
2 regarding the course of representation in this matter. As such, the Defendant is no  
3 longer accepting my advice or respecting my legal opinions with regard to this  
4 present matter. As such, I respectfully request that I be relieved as counsel for the  
5 Defendant at this time.

6  
7  
8  
9       5. For weeks I have been advising Defendant to retain the services of  
10 another attorney for representation in this case.

11  
12  
13       6. Within the past thirty (30) days I have spoken to the Defendant and  
14 confirmed its mailing address. I personally directed my office staff to serve the  
15 Defendant by mail with this Notice of Motion and Motion to be Relieved as Counsel,  
16 Memorandum of Points and Authorities and my declaration to the last known address  
17 in the file. A proof of service, signed by Maleah McGuire of my office evidencing  
18 service on the Defendant, is attached at the end of this motion.

19       I declare under the penalty of perjury under the laws of the United States that  
20 the foregoing is true and correct.

21  
22  
23  
24  
25       Dated: September 26, 2008



AL MOHAJERIAN, Esq.

## [PROPOSED] ORDER

The motion of AL MOHAJERIAN, ESQ., to be relieved as counsel of record for Defendant Chaudhariya, Inc., party to this action or proceeding, came on regularly for hearing on November 3, 2008, at 2:00 p.m. in Court Room No. 15 of the United States Courthouse located at 450 Golden Gate Avenue, San Francisco, California 94102. Moving party waived oral argument.

The following persons were present:

**1. Philip Kilduff, Esq. on behalf of Al Mohajerian, Esq. and the defendants.**

The court finds that Mr. Mohajerian has served ~~the~~<sup>all</sup> Defendants by mail and submitted a declaration establishing that the service requirements have been satisfied.

The Court, having considered the Motion to be Relieved as Counsel and the supporting declaration of Al Mohajerian, Esq. the Court finds that Mr. Mohajerian has shown sufficient reasons why the motion to be relieved as counsel should be granted

IT IS ORDERED that AL MOHAJERIAN, Esq. be relieved as counsel for all defendants Defendant Chaudhariya, Inc., in the above entitled action.

Clients are  
~~Client~~ hereby notified of the following effects this order may have upon  
parties.

## **NOTICE TO CLIENTS**

**Your present attorney will no longer be representing you. You may not in most cases represent yourself if you are one of the parties on the following list:**

- A guardian • A personal representative • A guardian ad litem
  - A conservator • A probate fiduciary • An unincorporated association
  - A trustee • A corporation

**If you are one of these parties, YOU SHOULD IMMEDIATELY SEEK  
LEGAL ADVICE REGARDING LEGAL REPRESENTATION. Failure to  
retain an attorney may lead to an order striking the pleadings or to the entry of  
a default judgment.**

Client is notified that, if the client will be representing himself or herself, the client shall be solely responsible for the case.

**CLIENTS**  
**NOTICE TO CLIENT WHO WILL BE UNREPRESENTED**

**You will not have an attorney representing you. You may wish to seek legal assistance. If you do not have a new attorney to represent you in this action or proceeding, and you are legally permitted to do so, you will be representing yourself. It will be your responsibility to comply with all court rules and applicable laws. If you fail to do so, or fail to appear at hearings, action may be taken against you. You may lose your case.**

1 Client is notified that it is the client's duty to keep the court informed at all  
2 times of the client's current address.

3 **CLIENTS**  
4 **NOTICE TO CLIENT WHO WILL BE UNREPRESENTED**

5 **The court needs to know how to contact you. If you do not keep the court**  
6 **and other parties informed of your current address and telephone number, they**  
7 **will not be able to send you notices of actions that may affect you, including**  
8 **actions that may adversely affect your interests or result in your losing the case.**

9  
10  
11  
12  
13  
14  
15 DATE: November 24, 2008  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

MOHAJERIAN LAW INC  
1925 CENTURY PARK EAST, SUITE 350  
LOS ANGELES, CALIFORNIA 90067  
TEL: (310) 556-3800 FAX: (310) 556-3817



This matter is set for further case management conference on January 12, 2008 at 3:00 p.m. All parties, including all defendants, shall appear on that date. Failure to appear will result in dismissal of this action if plaintiff fails to appear and default judgment if defendants fail to appear.

  
11/24/2008

**PROOF OF SERVICE**

(California Code of Civil Procedure, " 1011, 1013, 2015.5; California Rules of Court, Rule 2008(e))

1                   **STATE OF CALIFORNIA**                   )

2                   )

3                   **COUNTY OF LOS ANGELES**                   )

4                   I am employed in the county of LOS ANGELES, State of California. I am over the age of 18 and not a party to the within  
 5 action; my business address is: *1925 Century Park East, Suite 350, Los Angeles, CA 90067.*

6                   On September 30, 2008, I served the foregoing document described as **NOTICE OF MOTION AND**  
**MOTION TO BE RELIEVED AS COUNSEL** in this action

7                   X by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:  
 8                          by placing        the original        a true copy thereof enclosed in sealed envelopes addressed as follows:

9                   Thomas P. Riley, Esq. Law Office of Thomas P. Riley, P.C. First Library Square 1114 Fremont Avenue South Pasadena, California 91030-3227	10                  Jayantilal Kanji Gogri, Chanchal J. Gogri, Mountain Mike's Pizza, and Chaudhariya, Inc (Defendants) 404 Miwok Ct Freemont, California 94539
--	---

12                  X **BY PRIORITY MAIL** I caused said envelope to be deposited in the U.S. Mail, as follows: I am "readily familiar" with  
 13 the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with  
 14 the U.S. Postal Service on that same day, with postage thereon fully prepaid, at Los Angeles, California, in the  
 ordinary course of business. I am aware that, on motion of the party served, service is presumed invalid if the postal  
 cancellation date or postage meter date is more than one day after the date of deposit for mailing in this affidavit.

15                         **BY FACSIMILE** I served the forgoing document on the office of the addressee pursuant to CRC 2008 at the party's  
 16 facsimile number shown hereinabove. A transmission report was properly issued by the sending facsimile machine, and  
 the transmission reported as complete without error.

17                         **BY FEDERAL EXPRESS** I deposited in a box or other facility regularly maintained by Federal Express, an express  
 18 service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents, (copy of  
 the attached document), together with a signed copy of this declaration, in an envelope designated by the said express  
 service carrier, with deliver fees paid or provided for, addressed as listed above.

19                         **FEDERAL** I declare that I am employed in the office of a member of the bar of this court at whose direction this service  
 20 is made.

21                  Executed on September 30, 2008, at Los Angeles, California.

22                  I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

24                  (Signature):   
 25                  Print Name: Maleah McGuire